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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,190	07/19/2001	J. Alexander Marchosky	JMA 2976.1	1527
321 7590 01/08/2009 SENNIGER POWERS LLP 100 NORTH BROADWAY 17TH FLOOR ST LOUIS, MO 63102				
EXAMINER				
FRENEL, VANEL				
ART UNIT		PAPER NUMBER		
3687				
NOTIFICATION DATE		DELIVERY MODE		
01/08/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[uspatents@senniger.com](mailto:uspatents@senniger.com)

# Office Action Summary

**Application No.**

09/910,190

**Applicant(s)**

MARCHOSKY, J. ALEXANDER

**Examiner**

VANDEL FRENEL

**Art Unit**

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 14-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 14-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Notice to Applicant

1. This communication is in response to the Request for reconsideration filed on 3/11/08. Claims 1-6 and 14-94 are pending.
2. The Notice of Allowability provided on 7/01/08 has been withdrawn from issue, and a new Office Action is hereby presenting.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 14-94 are rejected under 103(a) as being unpatentable over Siperco, U.S. Patent Application Publication No. 2002/0062225 in view of Mayaud, U.S. Patent Application Publication No. 2005/0060197 and Karpf, U.S. Patent Application Publication No. 2005/0165626.

As per claims 1-6 and 14-94, Siperco discloses an automated, patient-controlled, medical and biological records system comprising:

- a central computer connected to a global computer network (Figure 1; 0022; 0024; 0028);

- a centralized medical and biographical records database maintained at the central computer (0028), said database including medical and biographical records for a plurality of individual patients (Figure 2, 0036, 0037), access to each of said medical and biographical in the database being controlled by a corresponding individual patient of said plurality of patients, said central computer having a security program limiting access to the records to the patients and to health care professionals (0022; 0027; 0030; 0031);

- one or more patient computers situated remotely from the central computer and connected to the global network (Figure 1; 0024; 0032), said patient computers each executing a software program interface for patients to input medical history and biographical information into the patent medical and biographical records database (0025; 0028; 0029; 0035; 0038; 0039);

- one or more health care computers situated remotely from the central computer and connected to the global network (Figure 1; 0024; 0029), said health care computers each having a software program interface for the authorized health care professionals to access the medical history and biographical information from the patient medical and biographical records database and to input additional patient medical history and biographical information into the patient medical and biographical records database (0024; 0026; 0027; 0028; 0029; 0031; 0032)

Siperco specifically discloses that the patients data may only be accessed by authorized individuals including health care professionals as described above, however,

fails to specifically disclose limiting access to the records to patients and health care professionals that are selectively authorized by the patients.

Mayaud discloses a medical information system used by health care professionals and further discloses that public confidence and issues of security as related to personal records is critical since many people will fear unauthorized access to their personal information. Mayaud further discloses that the invention provides careful controls to alleviate such fears and prevent unauthorized access to patient's data and further discloses that patient-directed control of the flow of their own data, a novel concept in medical or health care information systems, can be achieved by centrally inputting at the host computer facility patient generated record access specifications to determine which users, or user organizations or departments (for example clinics), can access what data during what period and what uses can be made of the data and that such specifications could be maintained at a remote database rather than the host computer facility. Thus, access to their records is controlled by patients and individuals and organizations can be given patient-defined, selective access or access based on a need to know, or a patient may block access to all data flow, if they wish (paragraphs 0149-0150 and 0155). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Siperco and allow the patient to self direct access to his own medical information as taught by Mayaud. Mayaud provides motivation by indicating that allowing patient directed access to their medical information will alleviate patient fears of unauthorized access to their personal data (0149).

Siperco further discloses a software program interface executing on the patient computer (0025; 0026) to input medical history and biographical information into the patient medical and biographical records database (0026; 0030; 0038), however does not specifically disclose using this interface to authorize health care professionals to access at least a portion of the records of the authorizing patients. Karpf, however, discloses separate terminals for both patients and medical personnel (Figure 1) and further discloses executing a software program interface on the patient computer (0019; 0054) to access the patients medical records (0055) by using an input interface (Figure 6; 0081; 0082) as well as establishing an authorization for medical personnel to access the patient's records. The patient establishes a Med-Password using the software interface executing on the patients terminal which restricts medical personnel access to only those medical personnel that the patient has authorized to use this Med-Password (0084). It would have been obvious to modify the software interface of the Siperco reference and include the teachings of Karpf related to allowing the patient to control access to the information by medical personnel by using the software interface. Karpf provides motivation by indicating this provides a means by which the level of access and update control to patient's information can be provided for patients and medical personnel (0084).

**Notes:**

1. Siperco reference was cited by applicant in an IDS filed 10/26/2006

2. Other references could also have been used in place of the Mayaud reference. For example, see the following:

Soong, 6,941,271 (705/3) (this reference was cited by applicant in an IDS filed 10/26/2006) discloses accessing patient records by applying access rules determined by the patient (abstract) (Col. 2, lines 50-60; Col. 5, line 37-Col. 6 line 13, Col. 6, lines 14-59; Col. 11, lines 5-50; Col. 12, lines 5-34).

Segal 2001/0041991 (705/3) also teaches patient controlled access of their information (Fig 2b, 2d, 0081, 0082, 0106, 0139).

Karpf 2005/0165626 (705/3) also teaches patient controlled access to medical information (0084).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/

Examiner, Art Unit 3687

January 2, 2009